IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No. 21384 of 2000

Between:

Parents Association of Mukarramjah School
Rep.by its General Secretary Dr.Abdul Quatyum,

S/o.Abdul Halem, age 41 yrs,

Occ:Lecturer, Puranihaveli, Hyderabad.

..... PETITIONER

AND

1 The Commissioner,
Endowments Dept., Govt. of A.P., Hyderabad
2 The Commissioner of School Education,
Govt. of A.P., Saifabad, Hyderabad.
3 The Dist. Educational Officer,
Hyderabad District, Hyderabad
4 The Mukharam Jah Trust for Education
Rep.by its Managing Trustee, Purani Haveli, Hyderabad.
5 The Mukharam Jah High School
Rep.by its Principal, Puranihaveli, Hyderabad.
6 The Indian Council for Secondary Education
New Delhi.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any writ, order or direction more particularly in the nature of writ of mandamus

to declare the fee structure which is fixed and being colleted by the respondents 3 and 4 as arbitrary, illegal and consequentially direct the respondent to constitute the governing body as per GO.Ms.No.1, Dt and restructure the fee to be colleted from the students of respondent No.4 school and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: Mr.J.SATYA PRASAD

Counsel for the Respondents 1 to 3 : GP FOR SCHOOL EDUCATION

Counsel for the Respondents 4 & 5 : Mr.P.Raghunandam

The Court made the following :

ORDER: (per THE HON'BLE THE CHIEF JUSTICE)

This petition is filed as PIL by Parents' Association of Mukarramjah School, Hyderabad, represented by its General Secretary seeking direction to declare the fee structure, which was fixed and being collected by respondents 3 and 4, as arbitrary and illegal and consequently to direct respondents 1 to 3 to constitute the Governing Body as per the Order issued by the Government of Andhra Pradesh.

Writ Petition was contested by respondents 4 and 5 by filing counter affidavit stating that 4th respondent-Trust was established in 1971 for advancement and propagation of education and it is not governed by A.P.Education Act and is also not bound by G.O. issued by the State Government. Respondents 2 and 3 also filed counter affidavit stating that Mukarramjah School, Hyderabad is not a recognized School by Government of Andhra Pradesh. The District Educational Officer, Hyderabad has not granted any permission or recognition to the School and it is a School affiliated to Indian Council for Secondary Education, New Delhi. Only the rules and regulations of I.C.S.E.Board with regard to fee structure are required to be followed by the said School.

The entire writ petition is based upon allegation as if respondents 4 and 5 were violating the provisions of the Andhra Pradesh Education Act and that respondents 1 to 3 have control over the School. But, respondents 2 and 3 stated that the School is required to follow the rules of I.C.S.E. Board with regard to fee structure. In any case, an order was passed by this Court impleading the Indian Council for Secondary

Education, New Delhi as party-respondent. Notice was subsequently issued and it has not been served upon 6th respondent-ICSE. Learned senior counsel appearing for the petitioner states that Indian Council for Secondary Education has not filed its reply. They still await copy of the affidavit so as to enable it to file suitable reply.

As noticed by us above, none of the allegations made in the petition are brought against the Indian Council for Secondary Education and the allegations are against respondents 4 and 5 that they had violated the provisions of A.P. Education Act. Therefore, it will be just a futile exercise even to serve on Indian Council for Secondary Education a copy of the affidavit and call upon them to answer the petition. In that view of the matter, the petitioner will have to file a fresh writ petition for the relief claimed.

Leave and liberty granted to the petitioner to file comprehensive petition against respondents 4 and 5 and the Indian Council for Secondary Education, New Delhi, 6th respondent, writ petition is dismissed. No costs.

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(**DEVINDER GUPTA, CJ**)

August 16, 2004

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(**C.V. RAMULU,J**)

prk

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Commissioner,

Endowments Dept., Govt. of A.P., Hyderabad

2 The Commissioner of School Education,
Govt. of A.P., Saifabad, Hyderabad

3 The Dist. Educational Officer,
Hyderabad District, Hyderabad

4 The Managing Trustee, Mukharam Jah Trust for Education,
Purani Haveli, Hyderabad.

5 The Principal, Mukharam Jah High School
Puranihaveli, Hyderabad.

6 The Indian Council for Secondary Education
New Delhi.

7. 2CCs to Govt.Pleader for School Education, High Court Buildings, Hyderabad, (O.U.T.)

8. 2CD copies.